G. R. S. IX-5]

Previous references.

Reserve

1917-18

(Courts)

File No. 16-17

Serial Nos. 145

Later references.

Ch. 17-17, 1-4.

Secret-B-2f No 1006-19

GENERAL AND REVENUE SECRETARIAT.

---

erial Nos. 145

Part B for August-1917

SUBJECT.

Appeal against the order of acquittal of Certain persons in Nadig guru Rao's Murder Case.

---

4) To the Dist- Magt- Kadur

" Govt- Advocate-

No J 480-1 Dt 13-8-17

Request the Govt- Advocate to prefer an appeal against the order of acquittal of the 2nd accused.

W D 18—GPB—50,000—24-7-18

Hd Abdus Rahman

11-8-18

G. R. S. 11] 1917. 118

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 16-17

FILE HEADING.

Appeal against the order of acquittal of certain persons in Nadig Guru Rao's murder case.

From

The District Magistrate, Kadur Dt.

No. C.M. 803 Dated 13.7.17 Received 14.7.17

Diary No. J-118	Enclos. 1 Judgt copy, 1 Letter of G.A. Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Submits copy of judgment in Kadur Sessions case no. 60/16-17 and copy of Govt Advocate's letter no 8 dt 7.7.17 in the matter of preferring an appeal against the order of acquittal of the accused nos 2, 3, 9 & 10, with his own views in the matter.

NOTES AND ORDERS.

Submitted for orders

Asst 14/7 NK

2) Do not the rules require copies of depositions should also be sent? Otherwise how can Govt decide? Please

(i) also be sent?

(ii) call for copies of depositions exhibits if any.

ES 16/7

NOTES—First Sheet.

WD 1283—GPB—60,CCC—1-12-16—S

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 16 of 1917.

Serial No.	
	3/ Submitted. (i) Reference is invited to para 2 of G.O. no J 2378-86-cts 145-10-1 dt 20.2.1911. (ii) Draft put up. AAR 16/7
	4 Issue dt 16/7
2	To The D.C. Madura dt. no dt 149 17th July 1917 Calls for copies of depositions and exhibits in the sessions case no 6 of 1916-17.
3	From The Supdg Police, Madura no. 117 dt 23.7.17 States that Mr S. Venkatadripathiyar, Prosecuting Inspector, Kdy, who conducted the prosecution in the Committing Magis Court has been directed to submit all the copies of depositions in that court & that the Sessions Judge has been requested to forward copies of depositions to this court
	5/ Submitted. May the receipt of the copies be awaited? AAR 26/7
	6. The facts of this case are well known. Nadiy Guru Rao as has been stated in Tamil Daily had created mangeuvres for himself.

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 16 of 1917.

Serial No.

On the 5th February (917), he went to Tankara in the morning from his village Bagavalli, and started back to his village in the evening with one Venkata Rao a constable in escort. He was waylaid near a scrub jungle, and beaten to death. The accused were all suspected, arrested and tried for the murder by the Sessions Judge has found the accused 4, 5, 6, 7, 8 & 12 guilty of murder under S 302 & 34 I.P.C, and accused 1 & 11 guilty of abetment under S 302 & 109 I.P.C and sentenced accused No 1, 11, 4, 5 & 6 to death, and 7, 8 & 12 to transportation for life. The rest were acquitted.

7. Of the 4 that were acquitted, the Government Advocate himself admitted that there was no evidence against accused No 9, that he might be given the benefit of doubt. No action therefore is asked for in his case.

Regarding the remaining three, the District Magistrate requests that an appeal may be preferred against the order of acquittal

8. The evidence against the 3 accused now accused is very weak, and the Govt. Advocate does not recommend any appeal.

As however there is more than prima facie evidence against the 3 accused, and there are good grounds for an appeal.

9. The Sessions Judge has, it is stated,

Paper under disposal.

E

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 16 of 1917

Serial No.

Para 8 of Paper under Disp.

made certain unwarranted remarks against the investigation against the accused. But such remarks by themselves do not justify an appeal being preferred by Govt. If the Chief Comr. do not take the same view, & direct the Sessions Judge, this should be done, that these remarks are unjustifiable, but no appeal need be preferred in the accused.

10) If approved, the Govt. Advocate will be asked to prefer an appeal against the order acquitting the 2nd accused.

Ex 4/8

Hon. Member M. I agree 8/8 Secy 9/8

12 Draft

13) Draft G.O. Subd.

14) Orders are solicited as to whether all the records received in this office may be returned to the District Magte. Some of them seem to have been received from the Prosecuting Inspector by the Asst Secy.

Asst 10/8

Some. The records may be sent to Govt Advocate. The copy of this Judgt is required for reference in another connection for a few days.

Ex. 10/8

Wants instructions from the Asst Secy the records of the case in the Committing Magistrate's file Session Case 5 have been kept back in the Branch. They will be sent if required.

5/8 9.8

Rs. 6/8

Disposed of 2250 since copies of ... in Case

NOTE—Contn. sheet.

ND 1233—GPB—60,CCC—1-12-16—S.

116
185

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 16 of 1917.

Serial No. 4

To The Dr Magte, Kadur

" Govt Advocate

no 9.480-1 dy 13/8/17

Regret the Govt Advocate to prefer an appeal against the order of acquittal of the 2nd accused.

1st, Subd with a draft forwarding copy of the judgment in the case to the Govt Advocate, as directed by the Addl Secy

Sub B

Addl 31/8 MK

2. Issue intimation as Secy

B 3/18

Mr Shesha Seen Pleader see note

NOTE—Contn. sheet.

Office of the District Magistrate,

Kadur District.

Dated Chikmagalur, 12th July 1917.

From

B. Ramaswamaiya, Esq., B.A.,

District Magistrate,

Kadur District.

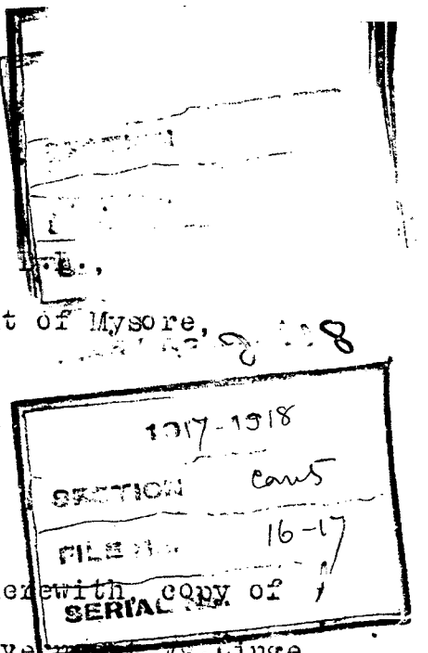
To

D.M. Narasinga Rao, Esq., B.A., B.L.,

Secretary to the Government of Mysore,

General Department.

Bangalore.



Sir,

I have the honour to submit, herewith copy of judgment in Kadur Sessions case No.6 of 16-17 Government Vs. Linge Gowda and 11 others pronounced by the Sessions Judge at Chikmagalur on the 19th of June 1917. In this case, accused No.4 Hussein, No.5 Buden, No.6 Chennabasav have been convicted under section 302 I.P.C. for murdering Nadig Guru Rao of Baggavalli in the Tarikere Taluk and sentenced to the extreme penalty of Law. Accused No.7 Emam, -- No.8 Mahomed Sab and No.12 Phakira have been convicted for the same offence but sentenced to Transportation for life owing to some mitigating circumstances found in their favour. Accused No.1 Linge Gowda and No.11 Rachiah were found guilty of the abetment of this murder and sentenced as "arch-conspirators" to be hanged as "there were no countervailing circumstances of aggravation to justify the passing of the lighter sentence".

2. Accused No.2-3-9 and 10 were acquitted by the -- learned Judge for the reasons given in paras 34-35-38/Sub para 3 and 36 of the judgment.

3. The accused who have been convicted have appealed to the Chief Court.

P.2.

W.D. 0244—GPB—6,00,000—19-5-16—S.

From

The District Magistrate
Madura District

To

The Secretary to
Govt
General Dept
Trangalore

Dated 12-7-17

Despatched 13-7-17

Received

C.M.

~~General~~ No. 803

No.

Enclosure No. 1 Judgment
Copy and Copy of Govt Advocate's letter

Submitting certain records
connected with the
murder case of --
Nadiey Guna Rao
of Baggavalli --
in the Dindigul
Taluk.

GEN. & REV. SECRETARIAT
II
JUDICIAL
14 JUL 1917

4. The Government Advocate conducted the prosecution of this case in the Sessions Court and as he was fully acquainted with the details of evidence his opinion in the matter of preferring an appeal against the order of acquittal with reference to the marginally noted accused was requisitioned and a copy of his reply communicated to me through his letter No.8 dated 7th instant is herewith submitted for the information of Government.

No.2. Chikkariappa.
" 3. Hanumegowda
" 9. Latchamana
"10. Puradegowda

5. As against the 9th accused Latchamana the Government Advocate says the order of acquittal may be left undisturbed. I am also of the same opinion. The probabilities are that he took no part in the murder though he had got ~~mind~~ mixed up with the murderers for some time in their wanderings without sharing their intentions.

6. With reference to the 2nd accused Chikkariappa, the Government Advocate advises an appeal being preferred against his acquittal. The evidence as to his harbouring the assasins for about a fortnight in his garden, supplying them all with food and some with drink, giving information to them about the movements of the deceased Nadig Guru Rao on several occasions and practically shadowing the movements of the deceased on the 5th February a day before the date of the murder is strong enough to prove that this accused was in the conspiracy to murder Guru Rao and that he actively aided and abetted the act. I therefore recommend that Government may be moved to sanction an appeal against the order of acquittal of this accused.

7. As against the 3rd accused Hanumegowda, the Government Advocate says that the evidence is weak on account of the unsatisfactory and unreliable nature of the witnesses that deposed against him and as no faith could be placed on their testimony, so the order of acquittal against him may, I think

think be left undisturbed.

8. Referring to the 10th accused Purade Gowda, the Government Advocate is of opinion that the evidence against him is legally insufficient to sustain a conviction and that there is not much chance of the acquittal being interfered with in appeal. But, the learned Judge as well as the Government Advocate both agree that the motive in his case is well made out, that the evidence regarding his complicity in the ~~conspiry~~ conspiracy or the abetment of murder of Guru Rao leads to a "strong moral conviction of his guilt" but that the legal proof, direct or circumstantial, is insufficient. In sub para 12 of para 40 of the judgment the learned judge says that this accused had to be given "the benefit of doubt" and goes even further to remark that "if the authorities who ~~if~~ were responsible for the investigation had discharged their legitimate duties in a more satisfactory and efficient manner, the result would have been different and that there would have been no miscarriage of justice". This remark of the learned judge -- goes to show ~~that he believed~~ that the 10th accused had participated in the guilt but that he was given the "benefit of doubt" arising from the defects in the investigation. On this point, the learned Government Advocate says that he "had the advantage of carefully perusing the special diaries and of freely discussing the details of the investigation with the Amildar (Investigating Officer) and that it appeared to him that the above observation of the learned judge could well be explained away". In the evidence adduced it is proved that the 10th accused was an intimate friend of the 1st accused, that they had visited each other on several occasions before and after the 5th November 1916 the day of the Mallenahalli rioting, and that they had interested themselves in each others affairs as could be shewn from the several entries personally made in the pocket Diary of the 1st accused Lingegowda, and there are many other circumstances to shew that the murder could not have been planned without the active ~~part~~ help and support of the 10th accused. It will also

be

be seen that if the observations of the learned judge referring to the few defects in the investigation could be well explained away the present "Mis-carriage of Justice" may, as well, be -- shewn to the satisfaction of the Chief Court that it was not due so much to the defects in the investigation but to the inadequate appreciation of the evidence. For these reasons, I beg that this aspect of the case against the 10th accused may also be considered while deciding the question of preferring an appeal against the order of acquittal against the 10th accused.

9. Upon the few Departmental irregularities noticed in the judgment, a report will be forwarded to the Inspector General of Police who has already called for the same.

I have the honour to be,

Sir,

Your most obedient servant,

District Magistrate,

Kadur District.

Letter No. 8/17-18 dated 7/9th July 1917 from the Government Advocate in Mysore, to the District Magistrate, Kadur District.

With reference to your letters Nos.Camp Judl.A"16-17 and C.M.803/16-17 dated the 19th June 1917, and the 20th June 1917 respectively, regarding the advisibility of preferring an appeal against the order of acquittal passed in the Guru Rao Murder case, I have the honour to state as follows:-

(i) As against the 9th accused, Lakshmana, I would advise that the order may be left undisturbed, as I cannot make up my mind to press the case against him after hearing from the confession of Chennabasava the 6th accused, that he is perfectly innocent.

(ii) As against the second accused Chik Kariappa, the evidence is as strong as under the circumstances it is -- possible to expect. He harboured the assassins for about a fortnight in his garden, was supplying them all with food and some with drink, gave information to them about the movements of the Nadig on several occasions and he practically shadowed the movements of the deceased on the 5th February, a day ~~before~~ before the date of the murder. I would advise an appeal being preferred against his acquittal.

(iii) As against the 3rd accused the Evidence is weak. His presence in the disputed field on 5th November 1916 at the time of the rioting, at Chetnahalli and Yennehole Mutt, are no doubt spoken to, but the variations in the depositions of those witnesses are such that it will be unsafe to place implicit faith on their testimony. The assemblage of the assassins in the temple at Betta Tavarekere and later on in the garden where the resolution to bring in more re-inforcements was come to are also referred to by the witnesses but the additions made in the Sessions Court whether deliberately or inadvertantly to strengthen the case against him, render

the

the evidence of those witnesses highly suspicious.

(iv) As against the 10th accused the evidence of the meeting at Yennehole Mutt and at Chetnahalli is far from satisfactory. Being a wealthy and influential person he appears to have managed to buy off the witnesses that refer to his participation in the crime. The motive, in his case, is well made out, but the evidence regarding conspiracy or the abetment in any other manner of the murder in question is neither creditworthy nor sufficient. But there are certain material observations made by the Sessions Judge, Viz., (1) "much of the valuable evidence collected during the -- investigation and found in the special diary has been kept out of Court" (2) " the result of this unwarranted and faulty procedure adopted is that the evidence particularly against Purade Gowda (10th accused) seems to have been treated, according to the -- Amildar, with courtsey, has been very weak, although there was ample evidence collected against him to prove the conspiracy". (3) " He(10th accused) appears to have taken part in the conspiracy both at Yennehole Mutt and at Chetnahalli, but the Amildar has not, according to his own admission, taken pains to visit these places to collect reliable evidence regarding those meetings". (4) "The other evidence collected was entirely kept out of Court for reasons best known to the investigating authorities" (5) "Though there is a moral conviction of his guilt, yet he had to be given the ~~nefit~~ benefit of the doubt. If the authorities who are responsible for the investigation had discharged their legitimate duties in a more satisfactory and efficient manner, the result would have been different and there would have been no miscarriage of justice".

I have had the advantage of carefully perusing the special diaries and of freely discussing the details of the investigation with the Amildar and it appears to me that these observations could well be explained away. Nevertheless the evidence against the 10th accused being legally insufficient to sustain a conviction there is not much chance of the acquittal being interfered with in appeal.

I am, in these circumstances of opinion, that an appeal so far as the 2nd accused Chik Keregowda is concerned may be filed.

&&&&&&&&&&&&

"C O P Y"

District Magistrate,

Kadur District.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to...J. 118.....

GENERAL AND REVENUE SECRETARIAT,
(Courts)
, *the* 191

Date of issue.....17.7.17.....

Signed by.....

Section Courts
File No. 16-17
Serial No. 2

No. J 149

To

The District Magistrate

Kadur

Sir

With reference to your letter no. Cm. 803 dated 13.7.17 in the matter of preferring an appeal against the order of acquittal of some of the accused in Kadur Sessions case no. 6 of 1916-17. I am directed to request you will be so good as to obtain and submit copies of depositions and exhibits in the case, at a very early date.

over.

I have &c

for Secy to Govt
Genl Dept

17/7

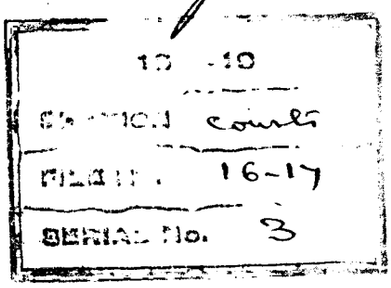
APR 1617

Office of the Superintendent of Police,

Kadur District,

Dated Chikmagalur, the 20~~th~~/23 July 1917

J.208



From,

S. Abdul Wajid
~~C. Abdulkader~~, Esquire, B.A.,

Superintendent of Police, Kadur District.

To,

D.M.Narasinga Rao, Esquire, B.A., B.L.,

Secretary to the Government of His Highness the Maharaja of Mysore, General Department, Bangalore.

Sir,

With reference to your letter No. J.149/Cts.16-17-2, dated 17th July 1917 to the address of the District Magistrate, Kadur, calling for the submission of copies of depositions of witnesses and exhibits in Session Case No. 6 of 1916-17(Government Versus Linge Gowda and others), I have the honor to state that Mr. S. Venkatapataiya, Prosecuting Inspector, Kolar Gold Fields, who conducted the prosecution in the Committing Magistrate's Court and who assisted the Government Advocate in the Sessions as well has been directed to submit direct to you all the copies of depositions in the Committing Magistrate's Court together with copies of exhibits and that the Sessions Judge has been requested to forward very early all the copies of depositions and exhibits in his Court relating to the case. On receipt of the same from the Sessions Judge they will be -- duly ~~forwarded~~ submitted.

I have the honor to be,

Sir,

Your most obedient Servant,

Superintendent of Police,

~~Kadur~~ District.

RECD
24 JUL 1917

W.D. 0244—GPB—6,00,000—19-5-16—S.

1917.

From The Superintendent of Police
Kadur District.

To The Secretary to the Government
of His Highness The Maharaja of
Mysore,
General Department,
Bangalore.

Dated 20th
Despatched 23rd July 1917.

Received

General No. 117
No.

Enclosure No. Nil

Refce: No. J. 149/Cb. 16-17 2 dy 17-7-1917
Copies of depositions of Witnesses and exhibits in Session case No. 6 of 16/17 will be submitted direct to you by Mr. S. Venkatapathaiya Prosecuting Inspector, Kolar Gold Fields, who conducted the Prosecution in the case and that the Copies of depositions and exhibits of the Sessions case will be submitted on receipt from the Sessions Judge, Shimoga Division

GEN. & REV. SECRETARIAT
III
JUDICIAL
25 JUL 1917

GEN. & REV. SECRETARIAT
JUDICIAL
4 AUG 1917

Office of the
Superintendent of Police,
Kadur District,
Dated Chickmaglur 28th July 1917.

DIARY No. J.2.D
19 -19
SECTION
FILE No.
SERIAL No.

From.

S. Abdul wajid Esquire,
Superintendent of Police,
Kadur District.

To.

D. M. Narasingarao, Esquire, B.A., B.L.,
Secretary to the Government of His Highness
The Maharaja of Mysore, General Department.

Sir,

In continuation of my letter No. 117 dated the 23rd instant, I have the honor to submit herewith the file of copies of depositions in the Nadig Guru Rao's Murder case, received to-day from the Sessions Judge, Shimoga and to state that copies of exhibits in the case could not be sent as the records in the case are stated to have been submitted to the Hon' Chief Court in Mysore.

Copy of docket No. 285/43 dated yesterday received from the Sessions Judge, Shimoga is herewith enclosed for perusal.

I have the honor to be,
Sir,
your most obedient Servant,

Abdul Wajid.
Superintendent of Police,
Kadur District.

W.D. 0244—GPB—6,00,000—19-5-16—S.

1917 1917

From The Superintendent of Police,
Kadur District.

To The Secretary to the Government of Mysore,
General Department,
Bangalore.

Dated 28th July 1917.

Despatched 1-8-17

Received

General No. 185

No.

Enclosure No. one file of deposition
a copy of docket from the Sessions Judge

File of copies of depositions in connection with the murder of Nanjegowda Rao of Baggavally in Mudigere Taluk

5-4-5

Copy of docket No. 285/43 dated the 27th July 1917 from the Sessions Judge, Shimoga Division, to the Superintendent of Police, Kadur District.

With reference to his no. 118 dated the 20th July 1917, has the honor to state that the copies of Exhibits in Kadur Sessions case No. 6 of 1916-17 on the file of this Court cannot be sent, as the entire record has been already submitted to Chief Court.

Such of the copies of depositions as were used by the Public Prosecutor and were taken by the Court clerk and which are the only available copies in this office, are herewith forwarded.

"Copy"

Superintendent of Police
Kadur District.

G.R.S. VI-71]

SUBJECT.....

.....

.....

Diary No. of letter replied to...I.208.....

Section Courts

File No. 16-17

Serial No. 4

General and Revenue Secretariat

(Courts)

Proceedings of the Government of
His Highness the Maharaja of Mysore.

, *the* *191*

Date of issue.....13/8/17.....

Signed by...M. G. Srinivasa

Read.—

Letter no. C.M. 803 dy 13.7.17 from the District Magistrate, Kadur, forwarding copy of Govt Advocates letter no. 8 dy 7/8.7.17 regarding the question of preferring an appeal against the order of acquittal of accused nos 2, 3, 9 & 10 passed by the Sessions Judge, Shimoga Dn, in Kadur Sessions Case no. 6 of 16-17, and Soliciting Sanction to prefer an appeal in regard to the acquittal of accused nos 2 & 10.

May this be

i printed?

ii treated as a standing order?

iii published in the Gazette English part?

iv translated?

v placed at the disposal of the Press?

vi published in the Gazette Kannada part?

(x) No 2. Chikkakariappa
" 3. Hanume Gowda
" 9. Lakshmana
" 10. Purade Gowda

over.

Order thereon [480]

~~Govt agree with the Govt Advocate that the evidence against the 1st to 4th accused is legally insufficient to sustain a conviction.~~ The Government Pleader is ~~He is accordingly~~ requested, under Section 417 of the Criminal Procedure Code, to prefer an appeal against the order of acquittal of the 2nd accused Chikka Kariappa.

~~Govt~~ Secy to Govt Law Dept

To The Dt Magte, Kodagu, Virajpet

returning (the Magte's file with the records received with his letter no. 185 dy 1.8.17

" Govt Advocate in Mysore, with the records relating to the trial in the Committing Magte's or Sessions Court. (Sent)

List of enclosures. (Sent)

Attn 10/8/17

Copied by

Examined by

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

3/8

Diary No. of letter replied to .....

GENERAL AND REVENUE SECRETARIAT

(Cons)

, the *191* .

Date of issue 4/9/17

Signed by M. G. Srinivasa

Section Cons

File No. 16-17

Serial No. 5

No. J 843 (Judgement Copy)

To

The Govt Advocate

in Mysore

Sir,

In continuation of G.O no. J 1480-1 dt 16-17-4-8-13-8-17 I am directed to forward herewith a copy of the judgment the Sessions Judge, Shimoga Divn in Kadur Sessions case no 6 of 1916-17

Marked

Forbery Govt Copy

Memo J 844

Copy to the Dy Supdt, Kadur for information

880

Forbery

Ans 21/8